

*What Every Member of the
Trade Community Should Know About:*

Classification of Marble



An Informed Compliance Publication

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U.S. CUSTOMS

NOTICE:

This publication is intended to provide guidance and information to the trade community. It reflects the Customs Service's position on or interpretation of the applicable laws or regulations as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

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PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “***informed compliance***” and “***shared responsibility***,” which are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's rights and responsibilities under the Customs and related laws. In addition, both the trade and Customs share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. The Customs Service is then responsible for fixing the final classification and value of the merchandise. An importer of record's failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings has been given a major role in meeting Customs informed compliance responsibilities. In order to provide information to the public, Customs has issued a series of informed compliance publications, and videos, on new or revised Customs requirements, regulations or procedures, and a variety of classification and valuation issues.

The National Commodity Specialist Division of the Office of Regulations and Rulings has prepared this publication on the ***Classification of Marble*** as part of a series of informed compliance publications regarding the classification and origin of imported merchandise. We sincerely hope that this material, together with seminars and increased access to Customs rulings, will help the trade community to improve, as smoothly as possible, voluntary compliance with Customs laws.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Customs Regulations, 19 CFR Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant. Reliance solely on the information in this pamphlet may not be considered reasonable care.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

Douglas M. Browning,
Acting Assistant Commissioner
Office of Regulations and Rulings

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General Introduction

When goods are imported into the Customs Territory of the United States (the fifty states, the District of Columbia and Puerto Rico), they are subject to certain formalities involving the U.S. Customs Service. In almost all cases, the goods are required to be “entered,” that is, declared to the Customs Service, and are subject to detention and examination by Customs officers to insure compliance with all laws and regulations enforced or administered by the United States Customs Service. As part of the entry process, goods must be “classified” (determined where in the U.S. tariff system they fall) and their value must be determined. Pursuant to the Customs Modernization Act, it is now the responsibility of the importer of record to use “reasonable care” to “enter,” “classify” and “value” the goods and provide any other information necessary to enable the Customs Service to properly assess duties, collect accurate statistics, and determine whether all other applicable legal requirements are met.

Classifying goods is important not only for duty purposes, but also for determining whether the goods are subject to quotas, restraints, anti-dumping or countervailing duties, embargoes or other restrictions. The act of classifying goods is complex and requires an importer to be familiar with the Harmonized Tariff Schedule of the United States (HTSUS), its 99 chapters, rules of interpretation, and notes. A detailed discussion of the HTSUS may be found in a companion publication entitled, *What Every Member of the Trade Community Should Know About Tariff Classification*. Customs valuation requirements are separately discussed in a companion publication entitled, *What Every Member of the Trade Community Should Know About Customs Value*. Both of these publications are available from the Customs World Wide Web pages on the Internet (see the Additional Information section for information on accessing these sources and obtaining additional Customs Service publications).

Classification of merchandise under the Harmonized Tariff Schedule of the United States is in accordance with the General Rules of Interpretation (GRI's). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes.

The *Harmonized Commodity Description and Coding System Explanatory Notes* (referred to as E.N. or *Explanatory Notes*)¹ constitute the official interpretation of the Harmonized System (HS) at the international level. The HS forms the basis for the HTSUS. While neither legally binding nor dispositive, the E.N.s provide a commentary on the scope of each heading of the Harmonized System and are generally indicative of the proper interpretation of these headings. See T.D. 89-80, 54 FR 35127, 35128 (August 23, 1989).

¹ The *Harmonized Commodity Description and Coding System Explanatory Notes - Second Edition* is © 1996 Customs Cooperation Council (working name: World Customs Organization (WCO)), Rue du Marché 30, B-1210 Brussels, Belgium.

Introduction to Marble

From ancient times through the present day, marble has been one of the most important monumental and building stones recognized for quality and durability. Shakespeare employs the phrase “whole as the marble” indicating the universal acknowledgment of this rock as the quintessential building stone. Marble is also the most important stone used in sculpture.

Geologists regard marble as a metamorphic rock, i.e., a rock that has been formed when a change takes place in another rock. Metamorphic rocks are formed deep beneath the earth's surface by extreme heat or pressure; they can also be formed when rock is permeated with other substances (e.g., magma). During metamorphosis recrystallization takes place, i.e, there is a change in the particle sizes of the minerals within the original rock.

The metamorphosis of limestone (a sedimentary rock) results in the formation of marble (a metamorphic rock). The principal component of both limestone and marble is the mineral calcium carbonate. When the smaller calcium carbonate particles within limestone recrystallize to form larger calcium carbonate particles, the limestone has metamorphosed into marble.

Principles of Stone Classification

Stone is classified based on its mineralogical properties and physical form at the time of importation. Laboratory analysis to identify the geological nature of the stone and physical examination to determine the form of the merchandise are crucial to our determination of the applicable subheading in the HTSUS. The following are the basic principles of classification applicable to importations of stone.

I. Geological nature

Numerous Headquarters rulings have held that stone is classifiable based on geological definitions. Note HQ rulings 085266, September 20, 1989; 085968, March 14, 1990; 952679, January 26, 1993; 955738, March 30, 1994; 950057, October 31, 1991; 086894, November 23, 1990; 951525, August 25, 1992. Therefore, any HTSUS subheading that refers to a particular stone by name will only cover products that conform to the geological definition of the stone. Often a product which may be called by the name of a specific stone in the trade (i.e., a “commercial” definition) fails to meet the geological definition for that stone; this type of item may not be classified under the HTSUS provision for the specific stone.

The Headquarters rulings that follow geological definitions are supported by the *Explanatory Notes*, which define stones in terms of their geological nature. Thus, the *Explanatory Notes* to heading 2515, indicate that serpentine is not classified as marble even though it is often called “marble” in the trade, since serpentine and marble are geologically different.

Furthermore, the *Explanatory Notes* to heading 2516, indicate that ecaussine may not be classified as granite even though it is often called “granite” in the trade, since it is a geologically distinct stone. The *Explanatory Notes* to heading 2516 (as well as the language of the HTSUS) describe basalt and granite as distinct stones. Since basalt and granite are geologically different, they are classifiable separately even though basalt is often called “granite” in the trade. The *Explanatory Notes* to heading 2516 list syenite, gneiss, diabase and diorite as stones which are distinct from granite. Since these stones are geologically different from granite, they may not be classified as granite even though they are often called “granite” in the trade.

The *Explanatory Notes* to heading 6810, list examples of the types of stones which may be agglomerated with binders. These examples include marble, limestone and serpentine. By listing these stones separately, the *Explanatory Notes* indicate that marble, limestone and serpentine are regarded as distinct stones (because they are geologically distinct) even though limestone and serpentine are frequently called “marble” in the trade.

II. Form

Generally Chapter 25 HTSUS covers crude stone and minerals, as well as stone and minerals worked in **very simple physical ways** (e.g., crushed, ground, powdered, washed, etc.). Stone worked beyond the point allowable in Chapter 25 is classifiable in Chapter 68. Importations of worked stone classifiable in Chapter 68 are more common than importations of crude or slightly worked stone classifiable in Chapter 25.

III. Articles of precious and semi-precious stone

While monumental and building stone is classified in Chapters 25 and 68, precious or semiprecious stone is classifiable in Chapter 71.

The HTSUS and the *Explanatory Notes* indicate that articles of precious or semiprecious stone must be classified in Chapter 71. Note 1(d) to Chapter 68 and Note (1)(a) to Chapter 71 clearly indicate that Chapter 71 takes precedence over Chapter 68. Therefore, articles of precious or semiprecious stone must be classified in Chapter 71 rather than Chapter 68. The Annex to the *Explanatory Notes* for Chapter 71 lists items which we regard as precious or semiprecious stones.

Marble Classification Issues

The two crucial classification issues for marble involve the geological nature of the stone and the degree to which the stone has been worked. In the first part of this paper we will discuss the geological definition of marble; we will discuss stones which are geologically distinct from marble but often entered incorrectly as marble. Our initial presentation on geological distinctions will be within the context of the 6802.9 subheadings, since importations of stones classifiable in the 6802.9 provisions are the most common. (Our discussion of the 6802.9 subheadings will also explain the distinction between marble slabs and other marble.)

The second half of this paper will focus on the extent to which a stone has been worked. We will explain the distinction between the worked stone classifiable in Chapter 68 and the crude or slightly worked stone classifiable in Chapter 25. We will explain various distinctions between different subheadings within Chapter 25 that are based on the degree to which the stone has been worked. (During the course of our presentation on Chapter 25, we will also discuss geological distinctions within the context of that chapter.) In addition, we will discuss distinctions between different subheadings within Chapter 68 (6802.2 v. 6802.9) which are based on the manner in which the stone has been worked.

Geological Distinctions in Chapter 68

Marble (Subheading 6802.91) vs. Limestone (Subheading 6802.92):

Geologists regard limestone and marble as distinct geological entities. Admittedly, the two stones have a similar chemical composition, since the principal component in both limestone and marble is calcium carbonate. However, marble and limestone are physically very different. Marble is limestone that has been recrystallized. The process of recrystallization makes limestone and marble two distinct stones.

Numerous rulings issued by Customs Headquarters have held that geological definitions of stone must be followed under the Harmonized Tariff Schedule (HTSUS). Although polished limestone (or limestone capable of taking a polish) is often called "marble" in the trade, Headquarters has ruled that it is classifiable as other calcareous stone in subheading 6802.92.00, HTSUS, not as marble in subheading 6802.91. Since geological definitions govern the classification of stone under the HTSUS and these two stones are regarded as distinct geological entities, limestone may not be classified as marble.

Since polished limestone (or limestone capable of taking a polish) is often referred to in the trade as "marble," limestone is often invoiced as marble and importers frequently enter limestone incorrectly as marble in subheading 6802.91, HTSUS. However, Customs does not equate limestone capable of taking a polish with marble. The crucial factor in the classification of limestone is its geological nature.

Limestone (classifiable in subheading 6802.92) and marble (classifiable in subheading 6802.91) are two geologically distinct stones because of the physical difference between them. Since marble (a metamorphic rock) is formed when limestone recrystallizes in the earth over a long period of time, marble is a much more crystalline stone than limestone. The sizes of the particles within marble will be larger than the sizes of the particles within the limestone from which it metamorphosed. The crystals within marble are more visible than the crystals within limestone. On the other hand, limestone is a sedimentary rock which contains a higher percentage of fossil material. Since limestone is frequently entered incorrectly as marble, we send samples of products entered as marble to the U.S. Customs laboratory for analysis. Often the laboratory will find that a stone entered as marble does not have the degree of crystallinity required of genuine marble. When laboratory analysis reveals that a specific stone has been entered

incorrectly as marble, the Import Specialist will issue a rate advance notice and advise the importer regarding the correct classification for this item.

Marble (Subheading 6802.91) vs. Serpentine (Subheadings 6802.99 and 7116.20)

Serpentine is sometimes referred to as “marble” in the trade. However, **serpentine and marble are geologically distinct**. As explained above, limestone and marble are regarded as different geological entities because of the great physical difference between these two stones. Serpentine is geologically distinct from marble because its chemical composition is different. While the principal component of marble is calcium carbonate, the principal component of serpentine is magnesium silicate. Marble and serpentine are two totally different stones. **Therefore, serpentine may not be classified as marble in subheading 6802.91 even though it is often called “marble” in the trade.**

Building stone (slabs and tiles) of serpentine is classifiable in subheading 6802.99.00, HTSUS, as other monumental or building stone. (Subheading 6802.92 is not applicable because serpentine is not a calcareous stone.)

The HTSUS and the *Explanatory Notes* indicate that articles of semiprecious stone must be classified in Chapter 71. The notes to both Chapter 68 and Chapter 71 indicate that Chapter 71 takes precedence over Chapter 68. See Note 1(d) to Chapter 68 and Note 1(a) to Chapter 71. Serpentine is listed in the Annex to the Chapter 71 *Explanatory Notes* as a semiprecious stone; **therefore, articles of serpentine are classifiable in subheading 7116.20, HTSUS, as articles of semiprecious stone**, although serpentine building stone is classifiable in Chapter 68.

In the past, when all the pieces necessary to form a fireplace surround (i.e., an unassembled fireplace surround) were present on a given shipment, the merchandise would be regarded as an article despite the fact that individual components were in the form of slabs. Thus, when all the pieces necessary to form a fireplace surround of serpentine were present in a single shipment, the merchandise would be regarded as an article of semiprecious stone classifiable in subheading 7116.20 despite the fact that the individual components were in the form of slabs. However, this position has recently changed. In HQ ruling 959301, dated October 9, 1997, Customs Headquarters ruled that as long as the individual components of an unassembled fireplace surround of serpentine were slabs, the product would be regarded as serpentine slabs (building stone), not as an article. Thus, assuming the components are in the form of slabs, an unassembled fireplace surround of serpentine is now classified as building stone in subheading 6802.99, not as an article of semiprecious stone in subheading 7116.20.

Serpentine is frequently invoiced and entered incorrectly as marble in subheading 6802.91. When the Import Specialist discovers that serpentine has been entered incorrectly as marble, a rate advance notice is sent to the importer indicating that the merchandise is properly classifiable in subheading 6802.99 (applicable to building stone of serpentine) or subheading 7116.20 (applicable to articles of serpentine).

Serpentine is often invoiced as “green marble.” We have found that merchandise described as “green marble” almost always proves to be serpentine when analyzed by the Customs laboratory.

Marble Slabs (Subheading 6802.91.05) vs. Other Marble (Subheading 6802.91.15)

Marble classifiable in subheading 6802.91 is subdivided into two categories: marble slabs classifiable in subheading 6802.91.05 and other marble classifiable in subheading 6802.91.15.

Additional U.S. Note 1 to Chapter 68 defines marble slabs in subheading 6802.91.05 in the following manner. “For purposes of heading 6802, the term slabs embraces flat stone pieces, not over 5.1 cm in thickness, having a facial area of 25.8 cm² or more, the edges of which have not been beveled, rounded or otherwise processed except such processing as may be needed to facilitate installation as tiling or veneering in building construction.”

The distinction between subheading 6802.91.05 and subheading 6802.91.15 involves a distinction between slabs and products worked beyond the point of being slabs. An ordinary marble tile might be classified either as a slab in subheading 6802.91.05 or as other marble in subheading 6802.91.15 depending on the degree to which the tile has been worked. Assuming a marble tile meets the criteria of thickness and facial area outlined in Additional U.S. Note 1, we must then determine whether or not the edge working on this tile precludes classification as a slab.

According to U.S. Note 1 to Chapter 68, a marble tile may be classified as a slab in subheading 6802.91.05, if the edges of this tile have only been beveled or otherwise processed to the extent “needed to facilitate installation as tiling.” What is the degree of edge working permitted in a product classifiable in subheading 6802.91.05? What is the extent of the beveling or other processing necessary to facilitate installation as tiling?

Customs Headquarters has ruled on this issue and set a standard of three thirty seconds of an inch to distinguish between slabs and products worked beyond the point of being slabs. Note HQ rulings 951047, dated September 17, 1992; 952678, dated December 30, 1992. **Thus, a marble tile (which meets the criteria for thickness and area indicated in U.S. Note 1 to Chapter 68) may be classified as a marble slab in subheading 6802.91.05 if it is beveled or otherwise edge worked only three thirty seconds of an inch or less. If the bevel or other cut on the edges, sides or corners of the tile is greater (i.e., wider or deeper) than three thirty seconds of an inch, subheading 6802.91.05 would not be applicable and the item would be classified in subheading 6802.91.15.**

If a marble item otherwise meets the criteria for a slab in subheading 6802.91.05, the fact that its face is polished will not preclude it from being classified in this subheading. However, if the edges or sides are polished, subheading 6802.91.15 will apply.

In the past when all the pieces necessary to form a marble fireplace surround (i.e., an unassembled fireplace surround) were present on a given shipment, the merchandise was classified as an article of marble in subheading 6802.91.15 despite the fact that the individual components were in the form of slabs. However, this position has recently changed. In HQ rulings 963321, dated April 26, 2000 and 964190, dated May 25, 2000, Customs Headquarters ruled that as long as the individual components of an unassembled fireplace surround of marble are slabs, the merchandise will be regarded as marble slabs, not as an article of marble. Thus, assuming the components are in the form of slabs, an unassembled fireplace surround of marble is now classified as marble slabs in subheading 6802.91.05, not as other marble in subheading 6802.91.15.

Chapter 25

The issues discussed above have been treated within the context of Chapter 68 of the HTSUS. **Generally Chapter 25 covers crude stone and minerals, as well as stone and minerals worked in very simple physical ways** (e.g., crushed, ground, powdered, washed, etc.). See Note 1 to Chapter 25 and the *Explanatory Notes* to Chapter 25. Stone worked beyond the point allowable in Chapter 25 is classifiable in Chapter 68. Importations of stone classifiable in Chapter 68 are more common than importations of Chapter 25 stone.

The balance of this paper will discuss Chapter 25 of the HTSUS and the distinctions in classification which are based on the degree to which a stone has been worked. We will explain the distinction between Chapter 25 and Chapter 68, distinctions between various provisions within Chapter 25 as well as distinctions between various provisions within Chapter 68.

Subheading 2515.11

Crude or roughly trimmed marble is classifiable in subheading 2515.11.00, HTSUS. Marble that has been “merely cut by sawing or otherwise into blocks or slabs of a rectangular shape” is classifiable in subheading 2515.12.10.

The *Explanatory Notes* to heading 2515 define the “crude and roughly trimmed” stone covered by subheading 2515.11 in the following manner. Crude stone includes “blocks or slabs which have been merely split along the natural cleavage planes of the stone.”

The surfaces of these blocks or slabs “are often uneven or undulating and frequently bear the marks of the tools used to separate them (crowbars, wedges, picks, etc.).”

Crude stone in subheading 2515.11 also includes “unshaped stone (quarystone, rubble) obtained by breaking out rocks from the quarry face (using picks, explosives, etc.).” These products have “uneven, broken surfaces and irregular edges” and “often bear the marks of quarrying (blast holes, wedge marks, etc.).”

Subheading 2515.11 also covers “waste of irregular shape arising from the actual extraction of the stone” within the quarry or from “subsequent working.” (This includes “quarry stones, waste from sawing, etc.”) Subheading 2515.11 is applicable assuming these pieces of stone are large enough to be used for cutting or construction. On the other hand, marble granules, chippings and powder would be classifiable in heading 2517.

“Roughly trimmed” stone covered by subheading 2515.11 is “stone which has been very crudely worked after quarrying to form blocks or slabs, still having some rough, uneven surfaces. This working involves removing superfluous protuberances by means of hammer or chisel-type tools.”

Subheading 2515.12

Subheading 2515.12.10 covers marble “merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape.” The *Explanatory Notes* indicate that the blocks and slabs covered by subheading 2515.12 “must bear discernible traces of the sawing (by wire strand or other saws) on their surfaces. If care was taken with the sawing, these traces may be very slight. In such cases, it is useful to apply a sheet of thin paper to the stone and rub it gently and evenly with a pencil held as flat as possible. This often reveals saw marks even on carefully sawn or very granular surfaces.”

The *Explanatory Notes* indicate that subheading 2515.12 may also cover rectangular blocks and slabs of stone “obtained otherwise than by sawing, e.g., by working with a hammer or chisel.” However, one must remember that the type of sawing, cutting or working permitted for products classifiable in subheading 2515.12 is limited to the simple cutting or sawing associated with quarry stone (i.e., simple cutting from the quarry block). Any cutting that goes beyond simple cutting from the quarry block requires classification in Chapter 68.

Geological Definitions in Chapter 25

Subheading 2515.11 (marble - crude and roughly trimmed) and Subheading 2515.12.10 (marble- blocks/slabs) vs. Subheading 2515.20 (limestone) and Subheading 2516.90 (serpentine)

Crude or roughly trimmed limestone or serpentine may not be classified as crude or roughly trimmed marble in subheading 2515.11.00, since these stones are geologically distinct from marble. **Crude or roughly trimmed limestone is classifiable as other calcareous monumental or building stone in subheading 2515.20.00. Crude or roughly trimmed serpentine is classifiable as other monumental or building stone in subheading 2516.90.00.** Serpentine may not be classified in heading 2515 because it is not a calcareous stone.

Limestone that is merely cut by sawing or otherwise into blocks or slabs of a rectangular shape is classifiable in subheading 2515.20.00. Since limestone is geologically distinct from marble, subheading 2515.12.10 is not applicable.

Serpentine that is merely cut by sawing or otherwise into rectangular blocks or slabs is classifiable in subheading 2516.90.00. It may not be classified as marble in subheading 2515.12.10 because it is geologically distinct from marble. It may not be classified as other calcareous stone in subheading 2515.20.00 because it is not calcareous.

(Heading 2515 covers calcareous monumental or building stone of an apparent specific gravity of 2.5 or more. Calcareous monumental or building stones of an apparent specific gravity of less than 2.5 are classified in heading 2516. See *Explanatory Notes* to heading 2515. In the discussion above, we dealt with limestone within the context of heading 2515. Limestone generally has a specific gravity of 2.5 or more and is classifiable in subheading 2515.20.00. Occasionally limestone may have a specific gravity of less than 2.5. In these instances, it would be classifiable in subheading 2516.90.00.)

Chapter 25 vs. Chapter 68

Generally, the permissible methods of working stone and minerals within Chapter 25 are listed in Note 1 to Chapter 25. According to this note, Chapter 25 only covers crude products or items which have been washed, crushed, ground, powdered, levigated, sifted, screened, concentrated by flotation, magnetic separation or other mechanical or physical processes (except crystallization). Note 1 indicates that Chapter 25 does not cover items which have been roasted, calcined, obtained by mixing or subjected to processing beyond that mentioned in each heading.

Please note that there are exceptions to the general rules indicated in Note 1 to Chapter 25. In some instances, the context of a particular Chapter 25 heading indicates that merchandise may be worked beyond the scope permitted in Note 1. (The heading may refer to merchandise, which by its very nature must have been subjected to a particular process not provided for in Note 1, or the heading may refer directly to specific processes or conditions that go beyond the scope of Note 1.) Secondly, a limited number of specific items listed in Note 4 to Chapter 25 may be classified in heading 2530 although worked beyond the scope permitted in Note 1. These exceptions are not relevant to our discussion of monumental and building stone in this paper.

Regarding the classification of monumental and building stone, any cutting that goes beyond simple cutting from the quarry block requires classification in Chapter 68. Thus, precision cutting, edge working or any processing other than the simplest cutting associated with the quarry precludes classification in Chapter 25.

The following operations dictate classification in Chapter 68:

- Honing and other operations designed to create a smooth or flat surface
- The same operations applied to the edges of a stone
- Polishing applied to either the face or edges of the stone
- Bossing, dressing, grinding, chamfering, molding, carving, etc.

- All working which goes beyond the simplest cutting associated with the quarry shifts the classification of stone from Chapter 25 to Chapter 68.

Stone is classifiable in Chapter 25 when it is merely shaped “by splitting, rough cutting or squaring, or squaring by sawing.” However, any stone worked beyond this point is classifiable in Chapter 68. See *Explanatory Notes* to Chapter 68.

The *Explanatory Notes* to heading 2515 indicate that this heading only covers stone “in the mass or roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape...Blocks, etc., which have been further worked, i.e., bossed, dressed with the pick, bushing hammer or chisel, etc., sand-dressed, ground, polished, chamfered, etc., are classified in heading 68.02. The same classification applies to blanks of articles.”

Heading 6802

Heading 6802 provides for worked monumental and building stone and articles thereof. The *Explanatory Notes* to heading 6802 indicate that natural monumental or building stone “worked beyond the stage of the normal quarry products of Chapter 25” is classifiable in heading 6802. “The heading therefore covers stone which has been further processed than mere shaping into blocks, sheets or slabs by splitting, roughly cutting or squaring, or squaring by sawing (square or rectangular faces).”

The *Explanatory Notes* indicate that heading 6802 covers stone “in the forms produced by the stone-mason, sculptor, etc.” These forms include “roughly sawn blanks” and “non-rectangular sheets (one or more faces triangular, hexagonal, trapezoidal, circular, etc.).” In addition, these forms include “stone of any shape (including blocks, slabs or sheets), whether or not in the form of finished articles, which has been bossed (*i.e.*, stone which has been given a rock faced finish by smoothing along the edges while leaving rough protuberant faces), dressed with the pick, bushing hammer, or chisel, etc., furrowed with the drag-comb, etc., planed, sand dressed, ground, polished, chamfered, moulded, turned, ornamented, carved, etc.”

(In addition to worked monumental and building stone, heading 6802 covers articles of monumental and building stone. As indicated above in the section on serpentine, a significant exception to this rule involves articles of precious or semiprecious stone classifiable in Chapter 71.)

Subheading 6802.21 vs. Subheading 6802.91

Within heading 6802, there is a distinction between subheadings that begin with the numbers 6802.2 and subheadings that begin with the numbers 6802.9. The 6802.2 subheadings cover “monumental or building stone, and articles thereof, simply cut or sawn, with a flat or even surface.” Monumental or building stone worked beyond this point is covered by the 6802.9 subheadings.

Subheading 6802.21.50 provides for marble “simply cut or sawn, with a flat or even surface.” Subheading 2515.12.10 covers marble “merely cut, by sawing or otherwise, into

blocks of a rectangular (including square) shape.” What is the distinction between the cutting or sawing referred to in Chapter 25 and the cutting or sawing referred to in Chapter 68? As explained above, the cutting or sawing referred to in Chapter 25 is the type of simple cutting associated with quarry stone.

Stone classifiable in heading 2515 may be obtained by blasting from a large quarry block or by cutting from the block. This stone may have surfaces which are obviously irregular. Even when obtained by cutting from the quarry block, heading 2515 stone will not have perfectly smooth surfaces. Merchandise classifiable in subheading 2515.12 “must bear discernible traces of the sawing” (although these traces may be slight in some instances). On the other hand, marble classifiable in subheading 6802.21.50 will have “a flat or even surface” (i.e., a surface which has been smoothed). Subheading 6802.21.50 applies to marble cut or sawn in a manner which goes beyond the cutting from the quarry block associated with Chapter 25 merchandise.

While subheading 6802.21 covers marble simply cut or sawn, with a flat or even surface, subheading 6802.91 covers marble worked beyond this point. Thus, marble which has been polished, beveled, edge worked, carved, molded, ornamented or worked in numerous other ways is classifiable in subheading 6802.91. All operations that go beyond cutting or sawing dictate classification in subheading 6802.

Limestone “simply cut or sawn, with a flat or even surface” is classifiable in subheading 6802.22 as other calcareous stone. It may not be classified as marble in subheading 6802.21 because it is geologically different from marble. Limestone worked beyond the point of simple cutting or sawing is classifiable as other calcareous stone in subheading 6802.92.

Serpentine “simply cut or sawn, with a flat or even surface” is classifiable as other stone in subheading 6802.29. It may not be classified as marble in subheading 6802.21 because it is geologically different from marble. It may not be classified as other calcareous stone in subheading 6802.22 because it is not calcareous. Serpentine building stone worked beyond the point of simple cutting or sawing is classifiable as other stone in subheading 6802.99, while serpentine articles are classifiable as articles of semiprecious stone in subheading 7116.20.

Heading 6802 (worked natural stone) vs. Heading 6810 (artificial stone)

Worked building stone is classifiable in heading 6802 assuming the stone is natural. However, artificial stone is classifiable in heading 6810. Artificial stone is formed when pieces of natural stone or crushed or powdered natural stone (e.g., limestone, marble, etc.) is agglomerated with plastics, cement, lime or other binders. In artificial (agglomerated) stone, the binding material and the stone run through the body of the item.

The classification of floor and wall tiles of agglomerated stone is dependent on the precise type of binding material used in the products. Subheading 6810.19.12 provides for floor and wall tiles of stone agglomerated with binders other than cement (e.g., plastics).

Floor and wall tiles of stone agglomerated with cement are classifiable in subheading 6810.19.14.

The Importer's Responsibilities

Since the enactment of the Customs Modernization Act in December 1993, the legal burden of correctly classifying merchandise has shifted from the Customs Service to the importer. *The importer of record is responsible for determining a particular stone's geological nature prior to the importation and entry of the merchandise.* When an importer or broker is aware (e.g., by receipt of a rate advance notice) that a particular stone is geological limestone or geological serpentine rather than marble, *he or she must enter the merchandise under the appropriate provision for limestone or serpentine despite the fact that the foreign supplier may refer to the product as "marble."* Moreover, the importer must advise the supplier that the merchandise is actually limestone or serpentine and encourage the shipper to invoice the item correctly as limestone or serpentine, not marble.

In addition to the importer's responsibility regarding the geological nature of the stone that is being imported, *he or she must be aware of the exact manner in which the stone has been worked.* Prior to the importation and entry of the merchandise, the importer must determine the precise manner in which the stone has been worked. The importer must obtain this information from the foreign supplier and advise the supplier to include the information on the invoice.

Furthermore, the importer must be familiar with distinctions between merchandise classifiable in heading 6802 and merchandise classifiable in Chapter 25. An importer must determine whether the stone has been cut or sawn in a manner which takes it beyond the scope of Chapter 25. One must also be aware of the distinctions (based on the degree to which the stone has been worked) between different subheadings within heading 6802 and different subheadings within Chapter 25.

If the importer is not certain regarding the geological nature of a stone product or regarding other matters which are pertinent to the classification of the merchandise, he or she may request a ruling on the classification of the stone. The ruling request should include a full description of the precise manner in which the stone has been worked as well as a sample of the item. If the product is too large to submit, the importer should submit a portion of the stone which includes sections of the face as well as the side (or edge) and corner. Based on analysis of the sample by the Customs laboratory as well as Customs' analysis of the manner in which the stone has been worked, a ruling will be issued to advise the importer regarding the correct classification for the item.

Invoicing Requirements

Pursuant to section 141.86(a)(3) of the Customs Regulations (19 CFR 141.86(a)(3)), the specific answers to the following questions are essential and should appear on invoices for marble or other stones:

1. What is the geological nature of the stone? (e.g., Is it limestone, serpentine or marble in accordance with geological definitions?) Invoicing stone simply as "marble" is improper unless the item is geological marble.
2. What is the brand name and/or style number of the stone?
3. Is the product an article, crude or roughly trimmed stone, crushed or ground stone, an unworked slab, a worked slab, etc.? [Indicate the exact form of the imported stone.]
4. Has the stone been simply cut from the quarry block or has it been further worked? Has it been precision cut, honed, edge worked, beveled, bossed, dressed with a tool, furrowed, sand dressed, planed, ground, polished, chamfered, molded, turned, ornamented, carved, etc.? [Indicate the precise extent to which the stone has been cut or worked. All operations applied to either the face or the edges of the stone should be described exactly.]
5. What is the area and thickness of the product?

Additional Information

The U. S. Customs Service's home page on the Internet's World Wide Web, provides the trade community with current, relevant information regarding Customs operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, Customs publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site contains the most current electronic versions of, or links to:

- Customs Regulations and statutes
- Federal Register and public information notices
- The Customs Bulletin and Decisions
- Binding Rulings
- Publications including-
 - *Importing Into the U.S.*
 - other Informed Compliance Publications in the "*What Every Member of the Trade Community Should Know About...*" series
 - *Customs Valuation Encyclopedia*
- Video Tape availability and ordering information
- Information for small businesses

The web site links to the home pages of many other agencies whose importing or exporting regulations Customs helps to enforce. The web site also links to the Customs Electronic Bulletin Board (CEBB), an older electronic system on which Customs notices and drafts were posted. Since December 1999, the CEBB has been only accessible through the web site. Finally, Customs web site contains a wealth of information of interest to a broader public than the trade community -- to international travelers, for example.

The Customs Service's web address is <http://www.customs.gov>.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under Customs Regulations, 19 CFR Part 177, or obtain advice from an expert (such as a licensed customs broker, attorney or consultant) who specializes in Customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from Customs ports of entry. Please consult your telephone directory for a Customs office near you. The listing will usually be found under U.S. Government, Treasury Department.

“Your Comments are Important”

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs, call 1-888-REG-FAIR (1-888-734-3247).



**U.S. Customs Service
Washington, D.C. 20229**

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